

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES KENT : CIVIL ACTION  
v. :  
COMMONWEALTH OF PENNSYLVANIA : NO. 07-1533

MEMORANDUM

Bartle, C.J.

May 4, 2007

James Kent has filed a petition for relief under 28 U.S.C. § 2241. He challenges his conviction in the Court of Common Pleas of Philadelphia County, Pennsylvania. Our Court of Appeals has explained that the only remedy available to a petitioner seeking relief as a result of state custody is a petition under 28 U.S.C. § 2254. Coady v. Vaughn, 251 F.3d 480 (3d Cir. 2001). Consequently, we will allow petitioner to file a petition under 28 U.S.C. § 2254 on the form that must be used for this purpose. If petitioner does so as set forth in the accompanying order, this action will be recharacterized as one under 28 U.S.C. § 2254, and any filing will relate back to the date this action was first filed. If petitioner fails to do so, this action will be dismissed, and he may thereafter lose his right to pursue his claim.

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              :  
              :  
v.           :  
              :  
COMMONWEALTH OF PENNSYLVANIA : NO. 07-1533

ORDER

AND NOW, this 4th day of May, 2007, for the reasons set forth in the accompanying Memorandum, it is hereby ORDERED that:

(1) the Clerk of Court shall furnish petitioner with a blank copy of this court's current standard form for filing a petition pursuant to 28 U.S.C. § 2254 (bearing the above-captioned civil action number);

(2) if petitioner wishes to proceed with this action, he shall file with this court his petition pursuant to 28 U.S.C. § 2254 on the enclosed form and do so on or before June 7, 2007;

(3) if petitioner does not make the filing on the proper form on or before June 7, 2007, this action will be dismissed; and

(4) if petitioner files a petition under 28 U.S.C. § 2254, he must submit to this court on or before June 7, 2007 either a completed in forma pauperis application form, **or** a check for five dollars.

BY THE COURT:

/s/ Harvey Bartle III

C.J.